

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

Jan F. Becker,	:	
Petitioner,	:	
	:	
v.	:	File No. 2:07-CV-224
	:	
Warden Hudson, et al.,	:	
Respondents.	:	

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
(Paper 1)

Petitioner Jan F. Becker, proceeding *pro se*, seeks to file a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Becker is incarcerated in Ohio, and seeks to challenge the judgment of an Ohio court. He has requested leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915, and has submitted an affidavit that makes the showing required by § 1915(a). Accordingly, the request to proceed *in forma pauperis* (Paper 1) is GRANTED. However, for reasons set forth below, I recommend that his petition be DISMISSED without prejudice for lack of jurisdiction.

Federal courts are under an obligation to independently examine their jurisdiction over each case. See FW/PBS, Inc. v. City of Dallas, 493 U.S. 215, 231 (1990). In this case, Becker asserts that he is incarcerated in the "Mansfield Correctional Institution

Secret United Way Death Gulag #3" in Mansfield, Ohio. The judgment he is challenging was allegedly entered by the "Millersburg, Ohio Holmes County United Way Court of Common Pleas & Iraqi Invasions." Under 28 U.S.C. 2241(a), district courts are limited to granting habeas relief "within their respective jurisdictions." Accordingly, the general rule is that a writ of habeas corpus may only issue where the district court has jurisdiction over the petitioner's custodian. See Rumsfeld v. Padilla, 542 U.S. 426, 442-43 (2004). Because Becker is currently incarcerated in Ohio, and is challenging an Ohio judgment, I recommend that his petition be DENIED without prejudice.

Dated at Burlington, in the District of Vermont,  
this 26<sup>th</sup> day of October, 2007.

/s/ Jerome J. Niedermeier  
Jerome J. Niedermeier  
United States Magistrate Judge

Any party may object to this Report and Recommendation within 10 days after service by filing with the clerk of the court and serving on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. Failure to file objections within the specified time waives the right to appeal the District Court's order. See Local Rules 72.1, 72.3, 73.1; 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b), 6(a) and 6(e).